IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2036 OF 1992

Mahamadsaheb Kadarsaheb Momin ..Petitoner

V/s.

Smt.Chatrapati Vijayamala Maharani Saheb & Ors. ..Respondents

Mrs.Shakuntala A.Mudbidri for petitioner.

None for respondents.

Coram : D.G.Deshpande,J.

Date : 16th October, 2006

P.C.

1. Heard advocate for the petitioner. Nobody is present for the respondents.

2. Respondent is a landlord. Eviction proceedings came to be started on her behalf against the petitioner. This proceedings were preceded by a notice terminating tenancy. According to landlord, the petitioner was a monthly tenant but according to tenant, it was yearly

tenancy and therefore, six months notice was necessary. This contention of the tenant was rejected by both the Courts below and hence, this petition.

3. Advocate for petitioner drew my attention to Exh.C/30. It is a rent note and it is for 11 months. It is also clarified premises were leased for go-down and colour factory i.e.Karkhana.

4. Counsel for the petitioner contended that even, though, rent note was for 11 months initially, the lease was continued thereafter and the petitioner went on paying the rent yearly. My attention was drawn to Exh.51 which is receipt issued by authorized agent of the landlord wherein it is written that premises are taken on a yearly rent of Rs.500/- for manufacturing.

5. The trial Court has pointed out that the manufacturing process was going on in the said premises, though, some part was being used for go-down. My attention was also drawn to the

deposition of agent of landlady wherein it was admitted as under :- “The averment in the rent note at Exh.60 to the effect that premises in dispute has been let out on rent in lumpsum of Rs.500/- p.a. for the purpose of go-down and manufacturing is correct. It is true that accounts are settled and payments are made on a yearly basis.”

6. In view of this petition is required to be allowed. Hence, petition is allowed. Rule is made absolute. The orders of both the Courts below are set aside. Suit of the respondent No.1 is dismissed.

(D.G.Deshpande,J.)